

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

KEVIN TARVER,  
Plaintiff,

v.

CITY OF DENTON, TEXAS et. al.,  
Defendants.

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Cause No. 4:21-CV-00970-SDJ  
Jury Requested

**JOINT REPORT**

TO THE HONORABLE JUDGE OF SAID COURT:

Come now the Parties hereto who make and file this Joint Report per the Federal Rules of Civil Procedure and for same would state the following:

1. A brief statement of claims and defenses:

Plaintiff: Plaintiff claims that his decedent was tased and subsequently shot and killed by Defendants Downing and Hernandez while decedent did not pose an immediate risk of injury or harm to the Defendants or others. Plaintiff further asserts that this use of force was a result of training failures of the City of Denton.

Defendants: Defendants deny that a deprivation of decedent's legal rights occurred as alleged and deny there is any basis for municipal liability in this matter. Furthermore, a reasonable official in the shoes of the individual Defendants could have believed that all actions of said Defendants were lawful and consistent with the preservation of decedent's legal rights; therefore, all claims by Plaintiff are barred by qualified immunity.

2. Jurisdictional basis for the suit:

The Parties do not oppose the jurisdiction or venue in this Honorable Court in this matter.

3. Additional related cases:

None known to the Parties or counsel.

4. Proposed deadlines for dispositive motions, expert objections:

Proposed dispositive motion deadline: Feb. 28<sup>th</sup>, 2023.

Proposed expert objection deadline: Feb. 28<sup>th</sup>, 2023.

5. Expert reports and discovery expected:

At this time, yes. The Parties contemplate exchanging expert reports and conducting depositions of said experts as necessary.

6. Proposed discovery plan:

The Parties propose to conduct discovery pursuant to the F.R.C.P. and Rules of this Honorable Court.

The Parties propose a discovery completion deadline of Jan. 31<sup>st</sup>, 2023;

Discovery is presently stayed pending resolution of Defendants' Motions to Dismiss per the Court's Order of March 01, 2022.

7. Document production:

The Parties propose that document production proceed by mandatory disclosure with no requests for production being permitted.

8. Proposed changes to Rules applicable to discovery:

None other than suggested elsewhere herein. The Parties propose full disclosure under F.R.C.P. 26 except as sought in Defendants' Unopposed Motion to Stay Discovery (docket # 18).

9. E.S.I. discovery:

The Parties contemplate no issues in this regard.

10. Proprietary Information:

The Parties contemplate no issues in this regard.

11. Privileged or trial preparation material:

The Parties contemplate that any issue in this area be addressed under applicable law.

12. Proposed pre-trial conference:

The Parties suggest a pre-trial conference on a date/time convenient to the Court during the two weeks prior to any trial setting.

The Parties estimate five days will be needed for trial, including jury selection and deliberation.

A Jury has been requested.

13. Objections to disclosure:

The individual Defendants object to discovery/disclosure beyond qualified immunity issues until that defense is resolved and respectfully requests entry of a Court Order to that effect.

Also, the Court's Order of March 01<sup>st</sup>, 2022, staying discovery relieves the Parties, for the time being, from disclosure obligations. F.R.C.P. 26(a)(1)(C).

Otherwise, the Parties present no objections to disclosure under Rule 26.

14. Mediation:

The Parties are amenable to mediation and suggest that mediation occur by Oct..21<sup>st</sup>, 2022.

15. Other proposals regarding scheduling or discovery:

None at this time.

16. Conference with the Court:

None is requested at this time.

17. Settlement negotiations:

None at this time. The Parties are formulating their respective positions in this regard.

18. Counsel certification:

Counsel for the Parties have read the Standing Orders of this Honorable Court and understand that non-compliance with the F.R.C.P., local rules or this Court's Standing Orders may result in sanction or other disadvantage.

19. Other matters relevant:

None other than the Parties propose a trial setting at the Court's first opportunity after July 01, 2023.

Counsel for the Parties have conferred by email from Mar. 01<sup>st</sup>, 2022, until the date this report is filed regarding the matters reported herein.

Respectfully submitted,

**By: /s/ John Joseph Coyle, III**  
**(by permission)**

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ATTORNEY FOR DEFENDANTS

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been forwarded to counsel of record Plaintiff in accordance with the Federal Rules of Civil Procedure, as modified by this Honorable Court's ECF Orders, on this 14<sup>th</sup> day of March, 2022.

**/s/ Joe C. Tooley**